

1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES

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4 In Re:) Case No. 2:21-bk-18205-DS
5 CRESTLLOYD, LLC,) Chapter 11
6) Los Angeles, California
7 Debtor,) Friday, 1:00 P.M.
8) March 11, 2022
9 -----X

10 HEARING RE: [162] BUYER'S
11 NOTICE OF MOTION AND
12 MOTION TO ENFORCE THE
13 COURT'S ORDER APPROVING
14 BID PROCEDURES

15 TRANSCRIPT OF ZOOM PROCEEDINGS
16 BEFORE THE HONORABLE DEBORAH SALTZMAN
17 UNITED STATES BANKRUPTCY JUDGE

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1 LOS ANGELES, CALIFORNIA, FRIDAY, MARCH 11, 2022

2 1:10 P.M.

3 --oOo--

4 THE CLERK: Please come to order. This court is
5 now in session, the Honorable Deborah J. Saltzman
6 presiding.

7 THE COURT: Thank you.

8 Good afternoon. It is March 11, 2022. This is
9 the Bankruptcy Court for the Central District of
10 California, Los Angeles Division. We are appearing on Zoom
11 this morning. Thank you for following the instructions on
12 the court's website and calendar and for assisting my law
13 clerks in recording your appearances this morning.

14 We only have one matter on calendar today. This
15 is the emergency motion filed in the Crestlloyd case. We
16 do, of course, have a more extensive hearing next week. I
17 think we actually have a very limited issue before the
18 Court today.

19 I'm going to start with appearances, calling
20 roll. I'm going to begin with those who have filed papers.
21 Those, I think, are the people who will be speaking today.
22 We do have a number of other parties who followed
23 instructions and said they wanted to make an appearance, so
24 I'll call roll for those names and we have a number of
25 observers as well.

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1 When I call your name, just state your full name
2 for the record and who you represent. And then after that
3 what I will do is call on those who filed papers on today's
4 matters, so we'll begin with the movant and any
5 oppositions. I may have some questions as we go. And then
6 I'll give the movant an opportunity for some final thoughts
7 before giving a ruling today.

8 If at any point we lose you for a technical
9 reason, just rejoin us as soon as you're able. Okay.
10 Let's begin, Mr. Newman. Good afternoon.

11 MR. NEWMAN: Good afternoon, Your Honor. Sam
12 Newman with Sidley Austin on behalf of winning bidder and
13 prospective purchaser Richard Saghian.

14 THE COURT: Mr. Golubchik, good afternoon.

15 MR. GOLUBCHIK: Good afternoon, Your Honor.
16 David Golubchik, Levene Neale Bender Yoo & Golubchik for
17 the debtor.

18 THE COURT: Mr. Shinderman and Mr. Schumacher,
19 good afternoon.

20 MR. SHINDERMAN: Good afternoon, Your Honor.
21 Mark Shinderman and William Schumacher of Millbank, LLP on
22 behalf of Yogi Securities.

23 THE COURT: Mr. Rafatjoo, good afternoon.

24 MR. RAFATJOO: Hamid Rafatjoo of Raines Feldman,
25 LLP for Nile Niami.

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1 THE COURT: Ms. Andrassy, good afternoon.

2 MS. ANDRASSY: Good afternoon, Your Honor. Kyra
3 Andrassy of Smiley Wang-Ekvall, counsel for Inferno
4 Investment, Inc.

5 THE COURT: And we also had check-ins from a few
6 other parties who I'll ask to make your appearances as
7 well.

8 Mr. Geher, good afternoon.

9 MR. GEHER: Excuse me, good afternoon, Your
10 Honor. Thomas M. Geher for secured creditor Hankey
11 Capital.

12 THE COURT: Mr. Bregman, good afternoon.

13 MR. BREGMAN: Good afternoon, Your Honor.
14 Jerrold Bregman from BG Law on behalf of Hilldun Corp.

15 THE COURT: Mr. Smith, good afternoon. Oh, sir,
16 you're mute. If you'd just unmute yourself or if you're
17 just observing, you don't need to make an appearance.

18 (No response.)

19 Okay. Let's go to who else checked in here.

20 Mr. Richards, good afternoon.

21 MR. RICHARDS: Oh, good afternoon. Just
22 observing, Your Honor.

23 THE COURT: Okay. Thank you.

24 MR. SMITH: I do apologize.

25 THE COURT: Ah, yes, there we go. Good

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1 afternoon, sir.

2 MR. SMITH: Thank you. Greetings to you all.
3 Smith Andre Mario by special appearance only on behalf of
4 special interested party Andre Mario Smith.

5 THE COURT: Thank you. Okay. Mr. Newman, why
6 don't we start with you. I have to be honest, counsel, I
7 think this is a very steep hill to climb procedurally. I
8 don't know that I'm in a position to grant you the relief
9 that you're looking for and it seems like maybe these are
10 more issues to be talking about next week in connection
11 with the sale.

12 MR. NEWMAN: Well, Your Honor, I think the
13 clarification we're asking -- I apologize, Your Honor.
14 Moments before the hearing started someone started using
15 the leaf blower right outside my window, so if you have too
16 much background noise, please let me know and I'll try to
17 see if I can get them to cease.

18 THE COURT: Not a problem. We can hear you just
19 fine.

20 MR. NEWMAN: Okay. Thank you. I think, Your
21 Honor, we are, as you indicated, putting a fairly simple
22 and direct issue before the Court, which is to ask the
23 Court to further explain and enforce the terms of the
24 existing bid procedures order and here's why.

25 It's undisputed and you've seen the papers that

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1 the auction is closed, the auction was conducted, as the
2 debtor has indicated, according to the bid procedures that
3 were set out and upon which my client relied in appearing
4 and making bids. The bidding is complete and under the
5 terms of the bidding procedures those bidding procedures
6 mandate that he be determined to be the winning bidder and
7 presented to the Court and his bid -- then we acknowledge
8 is subject to Your Honor's approval or disapproval at that
9 hearing.

10 However, that has been made clear in the last 48
11 hours is that several parties, perhaps including the
12 debtor, seem to believe that there is an other and further
13 opportunity for overbidding occurring after the completed
14 auction. You can see from the papers that have been filed
15 many parties are taking the position that other bids can
16 and should be sought and we've had other indications from
17 inside the papers including the sale motion itself in which
18 is a number of instances refers to some "overbid."

19 Your Honor, we don't believe that that is a fair
20 process. It's not the process my client signed up for and
21 it's not a process that's court approved. In deciding to
22 bid, the -- my client relied on the details of bidding and
23 auction procedures provided -- approved by the Court and
24 provided to him by the debtors. The debtor has now
25 satisfied its fiduciary duties by conducting the auction

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1 and is obligated under the terms of the bid procedures to
2 present the winning bid to the Court for approval. No
3 further action or overbidding is required in order for the
4 debtor to satisfy a fiduciary duty. And my client --

5 THE COURT: Does anything suggest that your
6 client's bid will not be presented?

7 MR. NEWMAN: Well, in at least one place in the
8 overbid motion -- in the bidding -- I'm sorry, the sale
9 motion, the debtor requested that this court approve sale
10 to my client or an overbidder and that's the part, Your
11 Honor, that we think is inappropriate. There's no reason
12 this court next week should be considering overbidders and
13 we don't think further activity by the debtor seeking
14 overbidders is contemplated by the procedures are
15 appropriate.

16 THE COURT: Well, it seems that that's an
17 argument that you would make before the hearing next week.

18 MR. NEWMAN: Well, I guess the point is, Your
19 Honor, that if an over bidding process is ongoing or could
20 be ongoing, it's not in compliance with Your Honor's
21 procedures and it doesn't give us any opportunity to be
22 involved or to understand what that would be and it doesn't
23 comply with the procedures that Your Honor has set out. I
24 mean, if you looked at the bidding procedures that were put
25 out, they're very clear. And frankly, having participated

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1 in a number of auctions involving property of this nature,
2 it is an important criteria for my client and for others
3 that they know that the bidding process will be completed
4 at the close of the auction and, therefore, they can come
5 and they will make their best bid, and that is a set of
6 decisions that the debtor made with the advice of their
7 expert and presented to Your Honor when they had the
8 bidding procedures approved.

9 And to now completely change the rules would be
10 inappropriate and would undermine the confidence both of
11 the public in the judicial sale process. And, you know, we
12 cite some cases, we cite additional cases in response to
13 the case that Mr. Shinderman cited that say very
14 specifically that the auction process itself with a
15 definite beginning, middle and end, it's critical to giving
16 bidders the incentive to come forward and make their best
17 bid.

18 So, for example, if my client had been told,
19 "Well, you come and bid last week, but then we're going to
20 go and see if other people want to bid after that," I don't
21 think he would have made the bid he made. In fact, I'm
22 pretty sure he would not have and we'd be sitting here with
23 a much lower starting price, if any.

24 So I think the point is that the rules actually
25 incentivize my client and others to make bids and now the

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1 debtor is trying to argue and others that they don't have
2 to rely on those procedures in seeking to approve the
3 highest bid that was obtained at the auction.

4 So what we're asking the Court to do, is by the
5 order make it clear that the existing bid procedures order
6 does not authorize, direct or require any further
7 overbidding of my client's bid and that my client's bid
8 should be the winning bid as identified at the auction and
9 should be as is mandatory under the bid procedures order
10 that Your Honor entered previously in the case should be
11 the bid submitted to the Court for approval. And these
12 bidding procedures have to --

13 THE COURT: I apologize for interrupting you,
14 Mr. Newman, but again, the bid is being submitted as the
15 winning bid at the auction.

16 MR. NEWMAN: This bid is being submitted or in
17 the reference to the motion of -- to some overbidder and
18 that's the part that we object to.

19 THE COURT: Okay.

20 MR. NEWMAN: We agree that this bid has been
21 submitted and we expect it to be submitted. However, this
22 process included, you know, very specific language saying,
23 for example, that, you know, the auction would -- the
24 auction record would be the sole basis to determine the
25 bid. There's no auction record open now. If there's any

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1 overbidder, that would be outside of compliance with those
2 bid procedures. It also says, for example, that the
3 auction -- the auctioneer had the definitive right to
4 determine the winning bidder at the auction.

5 So again, there's no -- you can search the bid
6 procedure order, and I have, Your Honor. There's no
7 reference in the bidding procedures, the auction
8 procedures, the bidding procedures order to an overbid
9 after the conclusion of the auction and that's the part to
10 which we object, Your Honor.

11 We don't think that the state's resources -- and
12 the debtor was quite clear in their bid procedures motion
13 that they were seeking to conserve estate resources and the
14 conduct of the process. We don't think estate resources
15 should be devoted to this, you know, subsequent -- some
16 subsequent mini-auction that's occurring outside of the
17 court-ordered process and we don't think there's any
18 requirement that the debtor do so.

19 Now, we're not saying, as we make clear in our
20 papers, that any party can appear and be heard on any topic
21 at the hearing next week. We're simply saying that it must
22 be clear that that hearing is not and the intervening
23 period between now and then, is not some sort of mini-
24 auction that is -- you know, that is going outside of the
25 approved procedures or without my client's knowledge.

1 THE COURT: Okay.

2 MR. NEWMAN: At this point I have no --

3 THE COURT: Oh.

4 MR. NEWMAN: Sorry, Your Honor.

5 THE COURT: No.

6 MR. NEWMAN: At this point, Your Honor, we've a
7 few comments from, you know, other papers that I just want
8 to address briefly.

9 THE COURT: Um-hum.

10 MR. NEWMAN: First off, there's a number of
11 parties that are saying that my client should have or could
12 have negotiated for some stalking horse protection, if
13 that's what it intended to do. That's sort of exactly our
14 point, Your Honor. This bidding process that my client
15 agreed to participate in and relied upon didn't include a
16 prior selection of a bid that was then going to be over-
17 shopped. It was a three-day auction. Many parties
18 participated. Multiple rounds of bidding occurred. A full
19 and fair opportunity for bidding has occurred. And that's
20 the record, Your Honor, I think -- and only that record
21 that Your Honor should be considering at the point at
22 which -- at which Your Honor considers whether or not to
23 approved our bid next week.

24 We also believe, Your Honor, that the fiduciary
25 duty's argument -- we don't think that anything about the

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1 debtor's fiduciary duty requires that there be unsanctioned
2 bidding to occur outside of the process. The debtor's
3 fiduciary duties are discharged based on the fact that they
4 did and have complied with this Court's order to conduct a
5 robust auction. You've got -- you will have evidence in
6 front of you next week confirming that Your Honor's order
7 has been complied with. And we believe that's all that's
8 required for the debtor to satisfy fiduciary duties.

9 And the cases that Shinderman cites, *Flower City*
10 and *Bekites* (phonetic) don't contradict that point. And
11 those cases clearly say that it's not just a mechanical
12 application of picking the biggest number, but that factors
13 including certainty and others and these are all issues
14 that could be raised next week need to be considered.

15 THE COURT: Yes.

16 MR. NEWMAN: And we would argue, Your Honor,
17 would include the respect for the process. There's two
18 cases I'd like to bring to Your Honor's attention in
19 response to the cases cited by Mr. Shinderman. There's *In*
20 *Re: Seybert*, which is 2008 Westlaw 686264 and --

21 THE COURT: I'm sorry again? 2 --

22 MR. NEWMAN: -- the (indiscernible) --

23 THE COURT: 2008 Westlaw 6 --

24 MR. NEWMAN: 686264, Your Honor.

25 THE COURT: Thank you.

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1 MR. NEWMAN: And in that case both the Bankruptcy
2 Court in the Eastern District refused to accept, you know,
3 after bidding outside of the context of the bid procedures
4 saying, at least in part, to accept the late bid under the
5 circumstances that clearly undermine the confidence in the
6 judicial sales and discourage protected purchasers from
7 making their best offer in a timely manner. And that's
8 kind of similar --

9 THE COURT: (Indiscernible), Mr. Newman --

10 MR. NEWMAN: Yes, Your Honor.

11 THE COURT: What was the procedural situation in
12 that case? Was there also a motion filed seeking
13 injunctive relief without commencing an adversary
14 proceeding or was this decided in connection with approval
15 of a sale?

16 MR. NEWMAN: Again, Your Honor, so first of all,
17 that was at the sale hearing. That case --

18 THE COURT: Right.

19 MR. NEWMAN: -- was seeking to (indiscernible).
20 However, it was -- it is not, I think, correct that we are
21 requiring injunctive relief outside of an adversary
22 proceeding. We're simply asking the Court to clarify its
23 earlier order making clear that there isn't a requirement
24 in bidding procedures or, as I said, authorization for
25 further overbidding following the auction, basically just

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1 asking the Court to make clear that the order meant what it
2 said and said what it meant when I think the parties are
3 taking liberties at this point to suggest that there is
4 some obligation or opportunity for further overbidding.

5 THE COURT: I'm just looking at the beginning of
6 the notice in motion and motion and it asks to enjoin the
7 debtor and debtor's agent from soliciting, collecting or
8 advancing any further bids for the property.

9 Again, I think that these are --

10 MR. NEWMAN: But --

11 THE COURT: -- a lot of interesting arguments,
12 but I don't see that this motion is the place to do it. I
13 think that these are issues that are appropriately raised
14 in connection with the sale hearing next week.

15 MR. NEWMAN: Well, Your Honor, we think that
16 there is a need for clarity in what the Court's earlier
17 order meant. And to the extent that Your Honor doesn't
18 feel the procedural presentation, notwithstanding 105 and
19 the cases we've cited with respect to the Court's ability
20 to enforce its own orders, at a minimum we think that the
21 Court's order should be clarified to make clear that
22 nothing about the procedures authorizes or permits
23 additional overbidding.

24 THE COURT: Okay. Thank you. So I'm going to go
25 around to those who've filed papers related to the motion

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1 and then, Mr. Newman, I'll come back to you at the end if
2 there's anything you'd like to respond to.

3 Mr. Golubchik.

4 MR. NEWMAN: Yes, Your Honor.

5 MR. GOLUBCHIK: Yes, thank you, Your Honor. As
6 Mr. Newman had an issue with the leaf blower outside, if
7 you hear barking there's a neighbor dog which we --

8 MR. NEWMAN: I remember.

9 MR. GOLUBCHIK: -- jokingly refer to as "The
10 Yapper." So let me know.

11 THE COURT: Not a problem. We can hear you just
12 fine.

13 MR. GOLUBCHIK: All right. I think the issues
14 have been clearly set forth in all of the pleadings. This
15 is not the sale hearing. Mr. Newman is attempting to
16 obtain an injunction or something prematurely, procedurally
17 improperly, which doesn't make sense.

18 If you look at our notice of sale and at the
19 motion, unless I can't write and Mr. Arnold can't write, we
20 were very clear that we did not anticipate an auction. We
21 are proceeding with this sale based on the bid procedures.

22 However, because the procedures order was entered
23 in such a way that this is subject to everyone's
24 objections, this is subject to the Court's order and the
25 reality here is that the sale price is less than the

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1 secured debt so we have to deal with the 363(f) issues. So
2 there is a possibility that the Court may theoretically
3 deny the motion. We advised everyone as part of caring out
4 the fiduciary objections of SCP as the manager, if we
5 receive anything we're not going to accept it. We're not
6 going to act on it because under the bid procedures order
7 we have an accepted offer. We will simply present it to
8 the Court and the Court and the parties can comment and
9 decide.

10 With respect to restrictions, I don't think that
11 we have done anything that is inconsistent or in violation
12 of the bid procedures order. There was an auction. A
13 motion had to be filed by March 8th. That is exactly what
14 we did.

15 On the other hand, I don't think there's anything
16 that's stated that third parties are not permitted to
17 provide more money. At the end of the day, Your Honor,
18 this bankruptcy, as all bankruptcies are, for the benefit
19 of the creditors. I think we have an example and when I've
20 been talking -- all of us have talked off the record, so
21 when we talk I throw out a hypothetical. What if Bill
22 Gates comes in --

23 THE COURT: Oops, I think you muted yourself,
24 counsel. I heard Bill Gates.

25 MR. GOLUBCHIK: Maybe I shouldn't have used that.

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1 Comes in with a 300 or 500 million-dollar all-cash offer,
2 then the Court has to do a balancing test; is it the same
3 (indiscernible) of the bid procedures order or is it in the
4 best interests of the creditors.

5 From our point of view, our obligation is to
6 present the facts and everything to the Court so the Court
7 can see what the situation is and a decision will be made,
8 but that's going to be made next week at the properly
9 noticed sale hearing. There shouldn't be anything in
10 advance that ties anyone's hands. I think the past of our
11 response I think is on point and it stays.

12 If you look at the balance of the equities, there
13 is no prejudice for the buyer, Mr. Newman's client, to make
14 the exact same objections and other objections at the
15 hearing next week. However, if there was an injunction,
16 which is improperly sought, the other creditors would be
17 prejudiced because they would not be aware of anything else
18 that may be out there, so it just does not make sense to
19 deal with this issue today. We can deal with it next week.

20 THE COURT: Okay. Thank you.

21 Mr. Shinderman.

22 MR. SHINDERMAN: Good afternoon, Your Honor.

23 Mark Shinderman, Millbank, on behalf of Yogi Securities.

24 Your Honor, I'll be very brief. First of all, I
25 want to assure people I am not standing outside

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1 Mr. Newman's window or Mr. Golubchik's window. Just want
2 to be clear.

3 Your Honor, this is an issue for another day as
4 you questioned why and I can go back and look at the
5 transcript, but my recollection at the hearing where you
6 set the bid procedures is that given the objections that
7 were interposed at that time you would be taking all these
8 things into account at the sale hearing, that people could
9 be heard to complain.

10 On Friday we are likely to file an objection to
11 the sale because we think there were some concerns and the
12 geopolitical stuff certainly affected our buyer base. We
13 think there was a soft gavel where bidders were told that
14 there'd be an opportunity, but that's an issue for another
15 day, right? Just like Mr. Newman will be heard to complain
16 on Friday, maybe the other secured creditors will as --
17 won't.

18 Between now and then, we think the duty of the
19 debtor is to maximize the value of the estate.
20 Mr. Golubchik and Mr. Perkins are terrific advisors.
21 They've been very receptive to calls and they understand
22 that duty. They will present -- my understanding is they
23 will present the highest bid, as well as anybody else who
24 comes forward before Friday to say, look, we have these two
25 choices. And because Mr. Golubchik is right, because the

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1 current bid doesn't pay secured creditors in full, there's
2 a very real issue about how we'll proceed.

3 So a long-winded way of saying, this is an issue
4 for another day. No one's rights are prejudiced and
5 Mr. Newman's position, while understandable, is probably
6 procedurally not correct as well, so thank you, Your Honor.

7 THE COURT: Thank you.

8 Ms. Andrassy, you filed a joinder. Anything to
9 add?

10 MS. ANDRASSY: No, Your Honor. I think
11 Mr. Shinderman did a good job of putting forth the concerns
12 that my client has. I think this is an issue that can be
13 raised next week. It should be an interesting week.

14 THE COURT: Thank you.

15 Mr. Rafatjoo.

16 MR. RAFATJOO: Thank you, Your Honor. Hamid
17 Rafatjoo of Raines Feldman for Nile Miami.

18 Your Honor, this motion is simply an attempt by a
19 buyer to over reach and obtain a windfall on this property.
20 There's no doubt that this property is worth materially
21 more than the current bid that is on the table. There's no
22 doubt that events in the world have impacted this auction
23 and the bids that have come in this property, which is
24 truly unique and one of a kind.

25 So to now face a motion that is procedurally

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1 incorrect, let's be perfectly clear. They are seeking an
2 injunction through a motion and the Federal Rules of
3 Bankruptcy Procedure are perfectly clear, but you need an
4 adversary action to do that.

5 In addition to that, Your Honor, it is shocking
6 that, you know, we are talking about sale motion and sale
7 hearing next week when this buyer has not executed the
8 documents. That addendum isn't signed. The debtor filed a
9 motion because it had to file a motion and the
10 documentation is not complete. This buyer is not bound to
11 purchase this property right now and they are trying to
12 find the debtor to sell it to them at this price if they so
13 choose to sign the documents.

14 And yet, we come to this court and we're hearing
15 about all, Your Honor, sale procedures order said this,
16 it's going to have this impact on future bidding in all
17 cases across the country. They haven't signed the
18 agreement. You're going to want to hold everybody's feet
19 to the fire to obtain a windfall on this house when you as
20 the buyer have not done what you are supposed to do, sign
21 the agreement.

22 So with respect to next Friday, you know, we have
23 oppositions and we will object and we intend to take some
24 depositions. What am I objecting to, Your Honor, a
25 document that's not signed, that a buyer was not found. So

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1 I question the need for that hearing on Friday, next Friday
2 without having signed documents. What are we proceeding
3 with; to sell something to someone who hasn't agreed to buy
4 it, even at this low price?

5 So there are a number of procedural issues
6 associated with this thing. Forget about today's motion.
7 It's improper. It should be denied. There is no reason
8 for it. But even for next Friday what are we moving
9 forward with? So from --

10 THE COURT: All right. Oh, I'm sorry. Go ahead.

11 MR. RAFATJOO: So from that perspective, Your
12 Honor, you know, frankly I would like some clarify because
13 if I'm going to be spending my client's money to take
14 depositions and file oppositions, I want to know what I'm
15 opposing.

16 THE COURT: Thank you. I think that in a way
17 your comments are somewhat similar to those of Mr. Newman
18 that these are all issues to talk about next week. I don't
19 think I have anything before me as to what parties ought to
20 be putting in objections or not, but I very much agree with
21 Ms. Andrassy. It's going to be an interesting week and
22 interesting conversation a week from today.

23 Mr. Smith, I saw your hand. You did not file a
24 paper in response to this motion, but you -- if you have a
25 brief comment, you're welcome to make it.

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1 MR. SMITH: Thank you. I actually did, but I had
2 to drop it in the dropbox due to some complication --

3 THE COURT: Okay.

4 MR. SMITH: -- about the tribunal, so it was
5 received yesterday before 4:00 p.m. when the clerk's office
6 closed in the dropbox.

7 THE COURT: Okay.

8 MR. SMITH: And it has been, but it's very
9 simple, very brief and I would like to incorporate it by
10 reference here. Bottom line is the offer is very
11 insufficient. A blind person could see that. A blind man
12 could see that. The reality is that everybody has a
13 fiduciary responsibility to the creditors to recover the
14 highest amount available and if that's the best that
15 Mr. Newman's client can do I just think it's really, really
16 dishonorable to try and enjoin the Court to enforce that
17 when it's just morally bankrupt.

18 The other thing is that -- excuse me -- in the
19 absence of Mr. Rafatjoo's comment about the document not
20 being fully executed, if it's not executed, it's not done
21 and there's always an offer or room for a higher bid or a
22 more responsible and more morally inept bidder to come
23 forward, even if it's goodwill, and do the right thing.

24 And so I believe that the Court also received a
25 bid yesterday in the dropbox before 4:00 p.m. when the

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1 clerk's office closed, a certificate of overbid notarized
2 and duly executed for 500 million dollars. And so if
3 Mr. Newman's client is interested in seriously bidding on
4 the property it should be in good faith and that's my
5 objection and I move this Court based on those moving
6 papers and the testimony today to oppose the order.

7 THE COURT: Thank you, sir.

8 Mr. Newman, I think that based on our discussion
9 a little earlier it's probably relatively clear where we're
10 going here today, but I wanted to give you an opportunity
11 to respond to what you've heard.

12 MR. NEWMAN: Well, I appreciate it, Your Honor.
13 And I think that the frame of the (indiscernible) parties
14 in large point kind of makes my point, which is that this
15 process, which my client participated in and relied upon is
16 being turned into kind of a general free-for-all with no
17 structure and no rule and my client believes that he has
18 rights that attended him by participating in the
19 representations that were made by the debtor and by relying
20 on the Court's order and he intend to fulfill those rights
21 and to prosecute them appropriately.

22 I'll just respond to Mr. Rafatjoo's discussion
23 with respect to whether my client has complied with its
24 obligations. My client has submitted signed copies of all
25 documents requested by the debtor and, in fact, we're twice

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1 assured that we have provided documents that complied with
2 the debtor's requirements.

3 I believe, and we haven't -- you know, I think
4 this is certainly not before the Court today but just the
5 Court has the information. I believe there is a discrete
6 dispute over what one -- one language in the two different
7 documents that were signed which basically then formed by
8 this issue. The question in our mind is whether the
9 documents that were signed give the parties an opportunity
10 for overbidding or not and we believe they do not
11 inconsistent with the other bid procedures (indiscernible).
12 So there's no question that we have submitted the
13 documents. We have submitted signed copies of the
14 documents and the debtors and we have disagreement about
15 how to interpret one of those provisions, but that's
16 something that I think can be -- result in another day. I
17 don't think there's any question that the bid is fully in
18 compliance with the bid procedures order and it's for the
19 property free and clear of liens, the way it was described.

20 And so, again, our request is that the Court
21 clarify its prior order to make clear that there is not an
22 overbidding process occurring now following the close of
23 the auction and we, of course, do reserve all rights of the
24 sale hearing with respect to the parties' conduct between
25 now and then.

1 THE COURT: Thank you.

2 Well, for purposes of today as I've said earlier,
3 this motion to me appears to be an effort to seek
4 injunction relief, which is procedurally improper as that
5 can't be done by motion. it needs to be done by adversary
6 proceeding.

7 To the extent that this motion seeks anything
8 else, including clarification of a prior order, I don't
9 think that there's any cause for relief. I think that the
10 sale procedures order and other orders entered in this case
11 all speak for themselves and there's been no cause shown
12 that any clarification is required.

13 This ruling denying today's motion is not a
14 ruling on the merits of any of the comments that anyone has
15 made today in connection with the sale motion and the sale
16 hearing that is going to go forward on Friday.

17 So to the extent that there have been comments
18 that relate to approval of the sale of the property, all of
19 those arguments can be raised in connection with next
20 week's hearing.

21 The Court will prepare an order on today's
22 emergency motion and that will be entered and I will expect
23 to read a lot of papers between now and a week from today
24 and probably see most of you in a week.

25 MR. GOLUBCHIK: Thank you, Your Honor.

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1 THE COURT: Thank you very much to everyone.

2 ATTORNEYS: Thank you, Your Honor.

3 THE COURT: We're adjourned.

4 (At 1:41 p.m.)

5 * * * * *

6 I certify that the foregoing is a correct
7 transcript from the electronic sound recording of the
8 proceedings in the above-entitled matter.

9

10 *Ruth Ann Hager*

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12 _____ Date: 3/27/2022

13 RUTH ANN HAGER, C.E.T.**D-641

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